

# How Can Employers Claim the Temporary COBRA Premium Subsidy?

*On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), which includes a temporary COBRA premium subsidy. How should an employer claim the credit for the COBRA subsidy?*

The new law provides a temporary 65-percent subsidy for COBRA continuation premiums for up to nine months for workers (and their families) who fall within certain income thresholds and were involuntarily terminated on or after September 1, 2008, and before January 1, 2010. The federal government will reimburse employers for the amount of the subsidy.

The employer may recover the subsidy provided to assistance-eligible individuals by taking the subsidy amount as a credit on its quarterly employment tax return. The employer may provide the subsidy—and take the credit on its employment tax return—only after it has received the 35-percent premium payment from the individual.

The credit is claimed on Line 12a of the January 2009 revision of the Form 941, which was posted on the IRS website on February 20, 2009. In addition, the Form 941 filer also needs to include the number of individuals provided COBRA premium assistance on Line 12b.

**Supporting documentation.** No additional information relating to the COBRA subsidy needs to be submitted with the Form 941, either electronically or in paper form. However, those claiming the credit must maintain supporting documentation for the credit claimed. Such documentation includes, but is not limited to:

- Information on the receipt, including dates and amounts, of the assistance-eligible individuals' 35-percent share of the premium.
- In the case of an insured plan, a copy of the invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA.
- In the case of an insured plan, a copy of the invoice or other supporting statement from the insurance carrier.
- Attestation of involuntary termination, including the date of the involuntary termination (which must be during the period from September 1, 2008, to December 31, 2009), for each covered employee whose involuntary termination is the basis for eligibility for the subsidy.
- Proof of each assistance-eligible individual's eligibility for COBRA coverage at any time during the period from September 1, 2008, to December 31, 2009, and election of COBRA coverage.

- A record of the Social Security Numbers of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee, and whether the subsidy was for one individual or two or more individuals.
- Other documents necessary to verify the correct amount of reimbursement.

**Cite:** American Recovery and Reinvestment Act of 2009 (P.L. 111-5), Title III, Sec. 3001, and <http://www.irs.gov/newsroom>